

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Kehne et al.**Serial No.: **09/726,290**Filed: **November 30, 2000**For: **Method and Apparatus for  
Updating New Versions of Firmware  
in the Background**§  
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§  
§Group Art Unit: **2122**Examiner: **James D. Rutten**Attorney Docket No.: **AUS9-2000-0449-US1**Certificate of Transmission Under 37 C.F.R. § 1.8(a)

I hereby certify this correspondence is being transmitted via facsimile to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, facsimile number (703) 872-9306, on August 10, 2004.

By: 

Dell Whitton

**NOTICE OF APPEAL**


Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the office action dated June 4, 2004 finally rejecting claims 1-36.

A fee of \$330.00 is believed to be necessary. Please charge this fee to IBM Corporation Deposit Account No. 09-0447. In the event that any additional fees are required for the prosecution of this application, please charge any necessary fees to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is needed, the extension is requested and the fee for this extension should be charged to IBM Corporation Deposit Account No. 09-0447.

Respectfully submitted,

  
Duke W. Yee

Reg. No. 34,285

YEE &amp; ASSOCIATES, P.C.

P.O. Box 802333

Dallas, Texas 75380

(972) 367-2001

ATTORNEY FOR APPLICANTS

**Yee &  
Associates, P.C.**

13760 Noel Road  
Suite 900  
Dallas, Texas 75240

Main No. (972) 367-2001  
Facsimile (972) 367-2008

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To: Commissioner for Patents for <b>Examiner James D. Rutten</b> <b>Group Art Unit 2122</b>	Facsimile No.: <b>703/872-9306</b>
From: Dell Whitton for Krista Douthitt Senior Paralegal to Duke Yee	No. of Pages Including Cover Sheet: <b>3</b>
Message:  Enclosed herewith: <ul style="list-style-type: none"><li>• Transmittal Document; and</li><li>• Notice of Appeal.</li></ul>	
Re: Application No. <b>09/726,290</b> Attorney Docket No: <b>AUS9-2000-0449-US1</b>	
Date: Tuesday, August 10, 2004	
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By:

  
Dell Whitton**TRANSMITTAL DOCUMENT**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**35525**PATENT TRADEMARK OFFICE  
CUSTOMER NUMBER

Sir:

ENCLOSED HEREWITH:

• **Notice of Appeal**

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Duke W. Yee

Registration No. 34,285

YEE &amp; ASSOCIATES, P.C.

P.O. Box 802333

Dallas, Texas 75380

(972) 367-2001

ATTORNEY FOR APPLICANTS